



AGENDA DATE: 09/13/06  
AGENDA ITEM: IV<sub>C</sub>

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.bpu.state.nj.us**

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED  
PETITION OF BROADVIEW NETWORKS )  
HOLDINGS, INC. AND ATX LICENSING, )  
INC. FOR APPROVAL OF AN INDIRECT )  
TRANSFER OF CONTROL OF ATX  
LICENSING, INC. AND RELATED )  
FINANCING TRANSACTIONS

ORDER OF APPROVAL

DOCKET NO. TM06060480

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 28, 2006, Broadview Networks Holdings, Inc. (Broadview Holdings) and ATX Licensing, Inc. (ATX and collectively Petitioners), pursuant to N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-7, N.J.S.A. 48:3-9 and N.J.S.A. 48:3-10 filed a petition for the Board's approval of the indirect transfer of control whereby Broadview Holdings will acquire indirect control of ATX and for related financing transactions. Following the transfer, ATX will retain its authorization to provide service in New Jersey.

BACKGROUND

ATX, which is headquartered in King of Prussia, Pennsylvania, is a wholly owned subsidiary of CoreComm-ATX, Inc., which, in turn, is a wholly owned subsidiary of CoreComm Communications, Inc., which, in turn, is a wholly owned subsidiary of ATX Communications, Inc. ATX Communications, Inc. is a wholly owned subsidiary of Leucadia National Corporation (Leucadia). Leucadia is a publicly traded holding company which engages in manufacturing, healthcare services, telecommunications, real estate, and other activities. In New Jersey, ATX was authorized to provide local exchange and interexchange services in New Jersey pursuant to authority granted by Order of the Board on March 29, 2000. See Order, In the Matter of the Application of ATX Telecommunications Services LTD. For Authority to Provide Local Exchange and Interexchange Telecommunications Services in New Jersey, Docket No. TE99070467.<sup>1</sup> ATX has indicated that it has approximately 34 employees located in New Jersey.

<sup>1</sup> The authorization was originally granted to ATX Telecommunications Services, Ltd. (ATX-TS). Subsequently ATX-TS became ATX Licensing, Inc. following an intra company reorganization.

Broadview Holdings is a privately held Delaware corporation with its principal business offices located in Rye Brook, NY. Broadview Holdings is the corporate parent of Broadview Networks, Inc. (Broadview), a New York corporation with its principal offices located in Rye Brook, NY. In New Jersey, Broadview was authorized to provide facilities-based competitive interexchange and local exchange services pursuant to authority granted by Order of the Board on August 16, 2000. See Order, I/M/O the Petition for an Order Authorizing Broadview Networks, Inc. to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE99120912.

Broadview Holdings is also the parent company of Broadview NP Acquisition Corp. (Broadview NP), BridgeCom International, Inc. (BridgeCom), and TruCom Corporation (TruCom). Broadview NP and BridgeCom are Delaware corporations. TruCom is a New York corporation. Broadview NP, BridgeCom and TruCom all have principal offices located in Rye Brook, NY. These subsidiaries also hold authorizations to provide competitive telecommunications services in multiple states and authority from the FCC to provide international and interstate services. In New Jersey, Broadview NP was authorized to provide interexchange and local exchange services pursuant to authority granted by Order of the Board on August 8, 2002. See Order, I/M/O the Petition for an Order Authorizing Broadview NP Acquisition Corp. d/b/a Broadview Net Plus to Provide Local Exchange Telecommunications Services Throughout New Jersey, Docket No. TE02040253. BridgeCom was authorized to provide facilities-based competitive interexchange and local exchange services pursuant to authority granted by Order of the Board on February 6, 2002. See Order, I/M/O the Petition for an Order Authorizing BridgeCom International, Inc. to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE01010040. TruCom was authorized to provide facilities-based competitive interexchange and local exchange services pursuant to authority granted by Order of the Board on March 15, 2001. See Order, I/M/O the Petition for an Order Authorizing TruCom Corporation to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE00090630.

According to the petition, Broadview Holdings proposes to purchase all the outstanding shares of ATX Communications, Inc for cash and in doing so will be acquiring indirect control of ATX. Petitioners are therefore requesting authority for the indirect transfer of control of ATX Communications, Inc.'s subsidiary, ATX, to Broadview Holdings. Petitioners state that immediately following the consummation of the transaction, ATX will continue to offer service under the same name with no change in rates or conditions of service. In connection with the proposed transaction, ATX Communications, Inc. and its subsidiaries, including ATX will become co-borrowers or guarantors in the existing indebtedness of Broadview Holdings and will pledge their assets as security. Petitioners also request approval for ATX to pledge its assets and enter into support for financing arrangements with a total aggregate amount of up to \$250 million. The financing arrangements will involve long-term financing, including the issuance of high-yield, secured notes, a revolving credit facility, a long-term loan or a combination of these financing vehicles. A portion of the funds from these financing arrangements will be used to repay existing indebtedness and the Petitioners plan to use the remaining funds to provide working capital, finance capital expenditures, transactional costs, and/or for other general corporate purposes. Petitioners request authority to the extent necessary for these financing arrangements.

Petitioners state that the proposed transaction is in the public interest and will be seamless and transparent to New Jersey customers. Immediately following the transfer, ATX will continue to offer telecommunications services in New Jersey with no change in the rates or terms and conditions of service. They further state that the proposed transaction will provide ATX access

to Broadview Holdings' substantial technical and management expertise, financial resources and will enable ATX's customers to benefit from Broadview Holdings' national network and broad suite of IP-based services. Together, these benefits are expected to strengthen ATX's ability to expand its offerings and provide more advanced telecommunications services to a broader customer base in New Jersey. Petitioners expect that the proposed acquisition will enable both ATX and Broadview Holdings to strengthen their competitive positions in New Jersey to the benefit of New Jersey consumers and the State's telecommunications marketplace. The proposed transaction therefore facilitates the Board's long-standing goal of fostering facilities-based competition.

### FINDINGS AND CONCLUSIONS

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since ATX's New Jersey customers will continue to receive the same services from the same entity at the same rates and under the same terms and conditions. Nor will there be a negative impact on competition. Moreover, a positive benefit may be expected from the strengthening of the Petitioners in the telecommunications market. Additionally, there will be no negative impact upon employees in the state.

Accordingly, after careful review of this matter, the Board FINDS that the transaction will have no material negative impact on competition, the rates of current customers, or on employees. The Board also FINDS that the transfer will have no negative impact on the provision of safe, adequate and proper service, and FURTHER FINDS that the transaction has the potential to positively benefit competition in the State. Therefore, the Board, after investigation, having considered the record and exhibits submitted in this proceeding, FINDS that the proposed transfer and entering into financial arrangements by the Petitioners are in accordance with law and in the public interest. The Board HEREBY ORDERS that the Petitioners shall notify the Board of the closing of the proposed transaction within 7 days of the consummation of the transfer.

The Board has reviewed the financing transactions proposed to be taken by the Petitioners and concludes that the financing arrangements are necessary and appropriate. Further, the Board FINDS that the financing transactions described above will serve the public interest in promoting competition among telecommunications carriers in New Jersey. The Board HEREBY APPROVES and AUTHORIZES Petitioners to participate in the financings as described above.

This Order is issued subject to the following provisions:

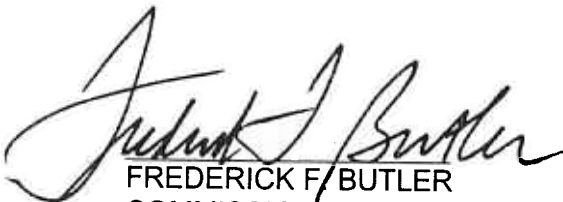
- 1 This Order shall not affect or in any way limit the exercise of the authority of the Board or of the State in any future petition with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioners.
2. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement does not constitute an automatic transfer of Petitioners' assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.
3. This order shall not be construed as directly or indirectly fixing for any purpose whatsoever any value of tangible or intangible assets now owned or hereafter to be owned by Petitioners.
4. The authority granted in this Order shall become null and void to the extent it has not been exercised within 365 days of the issuance of this Order.

DATED: 9/14/06

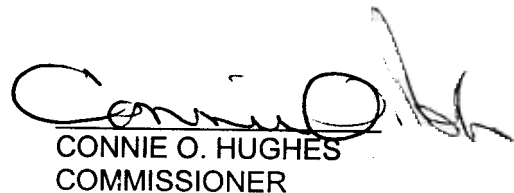
BOARD OF PUBLIC UTILITIES  
BY:



JEANNE M. FOX  
PRESIDENT



FREDERICK F. BUTLER  
COMMISSIONER



CONNIE O. HUGHES  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



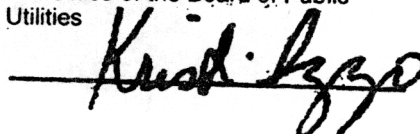
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:



KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



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Docket No. TM06060480

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